



UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

DIRECT MARKETING CONCEPTS, INC., et
al.,

Defendants.

CIVIL ACTION NO. 04-CV-11136GAO

AFFIDAVIT OF CHRISTOPHER WOOD

I Christopher Wood, on oath do depose and state as follows:

1. I am the General Manager for Direct Marketing Concepts, Inc. ("DMC") and
ITV Direct ("TTV") and have personal knowledge of the facts contained herein.
2. I have been employed by Direct Marketing Concepts and its affiliates since April
of 2002. I was the Manager of Customer Service and then promoted to Vice
President of Retail Sales and Business Development. On or about March, 2003 I
was promoted to General Manager.
3. As General Manager, I reported directly to Donald Barrett. My duties include
overseeing the managers and department heads, a staff of about twenty. I served
as a liaison between managers and Donald Barrett and I enforce company policy.

RICHARD CUSHMAN

4. I read Richard Cushman's Declaration where he states he was employed in the capacity as "Quality Control Manager". There was no such position and Rick was never a member of management.
5. Rick states in his declaration that he worked closely with Donald Barrett that simply is not true. Rick rarely saw or spoke to Donald.
6. During my tenure as manager of Customer Service, Richard Cushman worked for me. He was terrible; he had attitude problems, personal problems and mental issues. He has been a patient at the mental health facility Baldpate in Ipswich, Ma at least once to my knowledge.
7. Rick had some medical issues and told just about everybody in the company that he was going to be going through some serious surgery. He stated that the Doctors were going to have to amputate both his legs in order to save his life.
8. When I first meet Rick and learned about his background (he had a bad record) I was wondering why we were even employing this person. I realize he's a brother-in-law and everybody including myself felt sorry for him because Rick had informed us all that he had a serious medical issue he

claimed that his Doctor was going to have to amputate both of Rick's legs or else Rick would die. Rick expected to be bedridden for several months after which he would be fitted with artificial legs.

9. Even though Rick was married he was pursuing improper relations with fellow female employees in Customer Service. Rick himself was consistently late, but would try to cover for another employee named Stacey saying she had called in sick or late when she never did. When we terminated Stacy, Rick was upset and threatened all kinds of reprisals.
10. Rick sat next to another female employee Kim and was unprofessionally friendly with her. Rick undermined my authority by encouraging Kim not to follow my orders. Rick was suspended and sent home for this behavior.
11. On one occasion Rick brought a female to my office to interview for a position in the Customer Service department and informed me that she was a friend of his wife Karen. But it turned out that she was Rick's ex girl-friend, she didn't get hired.
12. I have had a quite a few customers call and ask to speak to the manager. When I took these calls I usually asked if they had spoken to someone else in the department and on many occasions I had customers tell me they talked to Rick and they thought he was unprofessional and rude.

13. In my position as Manager, Representatives (“Reps”) would hand off an extremely difficult customer to me, I usually asked the Rep what the situation was and most often the Reps explained the situation perfectly. However, with Rick he usually misinformed me to the point where I stopped asking him for any information.
14. I had recommended that Rick be terminated because I determined that he was a liability to the company. But, Donald had a big heart and felt bad for him so he tried to help Rick out. I volunteered Rick to go and help cut boards in the shipping department during our shipping department expansion. Rick and his partner Mike took two weeks to build a couple of work benches that should have only taken a few days. These benches were so flimsy that they fell apart when we tried to move them. Characterizing his work of “Rough Carpentry” on a few counters as “Constructing two Shipping Centers” is patently absurd and at best delusional.
15. After Rick came back from cutting boards and building benches I then gave Rick some little odd jobs to do, such as looking up customers missing addresses and/or phone numbers. He could not complete this basic task. Eventually, Rick was transferred to the sales department.

16. The sales managers made up some work for Rick. They were having Rick listen to phone calls in the call center but he really did not know what he was doing, he did not know the difference between a professional sales Rep and a lousy sales Rep. The thought was, it would keep the Reps honest if the Reps were to believe that we were always actively monitoring the calls. I was never able to use any of Ricks monitoring reports to give praise, criticize, discipline or terminate any employees, because they were inconsistent and did not make sense.
17. During the time Rick sat in the call center he averaged about two reports a day. The average sales call is usually between two to four minutes. The monitoring report is a just a few mouse clicks (check boxes) and a couple of one or two word comments and is usually completed during the call. Both reports should take no more than ten minuets a day. The rest of the time, thirty nine hours and fifty minuets Rick spent surfing the internet usually ([www.monstertruck .com](http://www.monstertruck.com)) or gossiping about nonsense.
18. More than once, Rick would tell me some far fetch stories about calls that he claimed to have herd but he could never prove. So, I set Rick up with a tape recorder and asked him to record any and all calls that he was monitoring so if he heard something that he thought was wrong then I could listen to the recording and take corrective action. He never brought me anything.

19. One day I was in my office which is in the rear of the call center when Rick came running in demanding that I would send one of our top Reps home. I asked Rick why, and he claimed the Rep slammed an unauthorized auto-ship on a customer. Rick knew if that was true I would fire any Rep that was caught doing that. I asked Rick for the recording and he failed to produce it. Rick called the customer on my speaker phone and Rick asked the customer if they had just called in to our call center. Rick inquired as to what was their order. The customer stated their order correctly including the auto-ship. Then Rick asked if they knew they could cancel the auto-ship, they said "yes" and asked that we cancel it now. I took the call over and explained that we were performing Quality Control. (That's where Rick got the idea that he was Quality Control from)
20. Due to Rick's ineptness on the phone with customers, and him screwing up our legitimate sales we told Rick to never communicate with customers directly again. Especially, after I investigated and discovered the real reason Rick was bringing the above mentioned call to my attention was that Rick wanted that Rep fired was because Rick had gotten in to an argument with that Rep the day before and Rick was looking to get back at that Rep.
21. One evening I was working late in the office I received several calls from sales Reps that Rick Cushman was walking in and out of the call center screaming that he's going to beat up and put a rope around Brian's neck and

drag him around the parking lot behind his truck because Rick's estranged wife Karen was in the restaurant next door talking with Brian while they were sipping drinks. Rick was flipping out claiming his wife was a slut and other nonsense. I asked Rick to leave the area he then jumped into his Jeep SUV and drove around the parking lot at a high rate of speed at around 8:00-9:00 at night with his headlights off, bouncing up over speed bumps. On November 15, 2003 Brian Middendorf sent an email to Donald Barrett. This email detailed the episodes of harassment and violent behavior of Rick.(see attachment A)

22. On one occasion Rick accosted me in the parking lot in a threatening manner. Rick informed me that he heard from Scot Sarver that I was hitting on his estrange wife Karen. I informed Rick that he was misinformed and I felt threatened. He then started telling me his wife's nick name was peanut -butter because she spread her legs that way. He also informed me that she had a sexually transmitted disease. He went on and on about what a bad person she was, she was nothing but a big dirty slob and she smells and she has very poor personal hygiene.

SCOT SARVER

23. I read Scot Sarver's Declaration. It is a distortion of the truth, but what else would you expect from a disgruntled ex-employee? First, Scot was never the director of shipping, there was no such position. Scot was only a supervisor of shipping "a first line manager". He was not a member of corporate

management and was kept out of all company business that was not related to shipping or the phone system.

24. Donald Barrett and I had determined that Scot Saver was a habitual liar and a liability to the company because he was constantly approaching female employees and asking them out. He spent little time in the shipping department and he had no expertise to add to the department. We transferred Scot to the call center to do call counts and program the phones until we could figure out what to do with him. He was not a manager and he was not there to oversee the call center. It was our intention for quite some time to fire him; we should have let him go a lot sooner.
25. Donald Barrett and I never discussed any company business with Scot or in front of him. All statements from Scot Sarver outside of call counts or the company phone system is made up and rumors that he liked to repeat to others as fact.
26. Scot Sarver stated that he reports the data to Donald Barrett on a daily basis. This essentially means to say that he sends an e-mail to Donald. I review all of Donald's e-mails and summarize them for him.
27. All of Donald's phone calls were screened and any issues relating to the business or employees were referred to me to take care of. Scot had no direct contact with Donald.

28. Scot Sarver talks about daily meetings with DMC employees – there were no such meetings. Scot claims Donald set the budget for the week - that was not true Donald never discussed any budget. Even if Donald wanted us to buy more media we were restricted by the amount of money we had on hand because we had to prepay for all our media.

SUPREME GREENS SHOOT

29. Scot Sarver was not in the studio during the taping of the Supreme Greens original shoot. I was in the studio during the shoot and Scot only showed up for a few minuets to program a speaker phone. I knew because I called him to come over and program the phones. I escorted him into the shoot during a break and escorted him out. No time during the few minutes that Scot was in the studio did he overhear any conversation between Donald Barrett and Alex Guerrero. Both Don and Alex had make-up on and microphones were attached to their suits and we seated in front of the cameras. They couldn't just jump up and start having any private conversations. Anything they had to say was going to be recorded because the cameras and audio tapes are always running, they don't get turned on and off between takes.

AUTO-SHIPS

30. Scot misstates the monthly auto-ship sales figures. Scot never had access to these reports so any information he may have he is either making it up or he's relying on rumor. In fact looking closer at Scot's Declaration it is clearly based on rumor and fabrications.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 6th day of June, 2004 in Beverly, Massachusetts.


CHRISTOPHER WOOD